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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held September 12, 2013 |
| Commissioners Present: |  |

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| Robert F. Powelson, Chairman | |
| John F. Coleman, Jr., Vice Chairman  Wayne E. Gardner  James H. Cawley | |
| Pamela A. Witmer | |
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| Petition to Transfer Natural Gas Supplier License from UGI Energy Services, Inc. to UGI Newco, LLC, Natural Gas Supplier License Application of UGI Newco, LLC and Abandonment of the Natural Gas Supplier License of UGI Energy Services, Inc. | Docket Numbers: A-125018  A-2013-2369286 |

# ORDER

**BY THE COMMISSION:**

On May 8, 2013, UGI Energy Services, Inc. (UGI INC) filed a Petition, pursuant to 52 Pa. Code §62.112(a), seeking the transfer of the natural gas supplier (NGS) license of UGI INC, at Docket No. A-125018, to UGI Newco, LLC (UGI LLC). Additionally, on May 18, 2013, UGI LLC filed a License Application, at Docket No. A-2013-2369286, to offer, render, furnish or supply natural gas supply services as a broker/marketer, an aggregator, and a supplier of natural gas services in the natural gas distribution company (NGDC) service territories throughout the Commonwealth of Pennsylvania. The Application was filed pursuant to section 2208 of the Natural Gas Choice and Competition Act (Act) and Title 52, Chapter 62, Subchapter D.

§2208 provides in pertinent part that:

Requirements for Natural Gas Suppliers.--No entity shall engage in the business of a natural gas supplier unless it holds a license issued by the Commission. To the extent that a natural gas distribution company provides natural gas supply service outside of its chartered or certificated territory, it also must hold a license. A license shall not be required for customers who make de minimis incidental sales or resales to themselves, an affiliate or to other nonresidential retail gas customers.

66 Pa. C.S. § 2208.

A natural gas supplier is defined as:

An entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company. The term includes a natural gas distribution company that provides natural gas supply services outside its certificated service territories. The term includes a municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply services to retail customers located outside of its corporate or municipal limits, as applicable, other than:

(i) as provided prior to the effective date of this chapter, pursuant to a certificate of public convenience if required under this title;

(ii) total natural gas supply services in de minimis amounts;

(iii) natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided; or

(iv) natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law independent of this chapter.

The term excludes an entity to the extent that it provides free gas to end-users under the terms of an oil or gas lease. Notwithstanding any other provision of this title, a natural gas supplier that is not a natural gas distribution company is not a public utility as defined in section 102 (relating to definitions) to the extent that the natural gas supplier is utilizing the jurisdictional distribution facilities of a natural gas distribution company or is providing other services authorized by the Commission.

66 Pa. C.S. § 2202.

As used in the above definition of a natural gas supplier, the term natural gas supply services includes (i) the sale or arrangement of the sale of natural gas to retail customers; and (ii) services that may be unbundled by the Commission under section 2203(3) of the Act (relating to standards for restructuring of the natural gas utility industry). Natural gas supply service does not include distribution service.

66 Pa. C.S. § 2202.

Additionally, UGI LLC requests that the Commission waive the public notice requirement in Section 62.107 of the Commission’s regulations, 52 Pa. Code § 62.107. UGI LLC submits that the “…transfer is akin to a material change in organizational structure governed by Section 62.105(b) of the Commission’s regulations, 52 Pa. Code § 62.105(b) which merely requires a notice filing to the Commission.”

UGI INC is an NGS in the Commonwealth of Pennsylvania, at Docket No. A-125018. UGI INC is a domestic business corporation that has been in business since March 17, 1995. UGI INC is licensed as a broker/marketer, an aggregator, and a supplier of natural gas services to residential, small commercial (less than 6,000 Mcf annually), large commercial (6,000 Mcf or more annually), industrial and governmental customers in all NGDC service territories throughout the Commonwealth of Pennsylvania. By Order, adopted October 15, 1999, the Commission granted UGI INC an NGS license. By Secretarial Letter, dated August 21, 2002, the Commission approved an amendment to UGI INC’s license to include the additional service territory of Philadelphia Gas Works.

UGI INC states that given certain considerations under existing federal and state tax laws, it will be changing its current organizational structure from a corporation to a limited liability company, in order to manage financial resources and remain competitive in the natural gas supply markets. UGI INC submits that under Pennsylvania law, the process for converting an existing corporation into a limited liability company requires the incorporation of a new limited liability company and the merger of the existing corporation into the new limited liability company.

As a result, UGI Newco, LLC was formed as a Pennsylvania limited liability company on March 23, 2013. UGI INC asserts that upon Commission approval of the Petition to transfer UGI INC’s license to UGI LLC, UGI INC will be merged into UGI Newco, LLC in its entirety and the resulting entity will be renamed UGI Energy Services, LLC. UGI LLC proposes to act as a broker/marketer, an aggregator, and a supplier of natural gas services to residential, small commercial (less than 6,000 Mcf annually), large commercial (6,000 Mcf or more annually), industrial and governmental customers in all NGDC service territories within the Commonwealth of Pennsylvania.

Since UGI LLC proposes to provide natural gas supplier services to residential customers it is required to comply with, and be governed by, applicable Chapter 56 residential service regulations as set forth in the Commission Order *Guidelines for Maintaining Customer Service at the Same Level of Quality Pursuant to 66 Pa. C. S. §2206(a), Assuring Conformance with 52 Pa. Code Chapter 56 Pursuant to 66 Pa. C.S. §2207(b), §2208(e) and (f) and Addressing the Application of Partial Payments* (M-00991249 F003)*.* Thus, we deem it appropriate to reiterate certain items with respect to Chapter 56 of our regulations. Chapter 56 (52 Pa Code Chapter 56) is applicable to residential accounts. A natural gas supplier cannot physically disconnect a residential customer from the distribution system, and thus, the rules relating to residential service termination are not applicable to natural gas suppliers. A natural gas supplier may seek to terminate its natural gas services through an appropriate written notice to the customer and the local distribution company. The residential customer can then attempt to repair his or her relationship with the natural gas supplier, seek a new natural gas supplier, or default to the natural gas distribution company’s service tariffed rates in accordance with the local distribution company’s obligations under Section 2207(a), 66 Pa. C.S. §2207(a). The customer would only be disconnected from the distribution system pursuant to appropriate regulations if the customer failed to meet his or her obligations to the natural gas distribution company or the natural gas supplier which has been designated by the Commission as the supplier of last resort.

Additionally, we specifically note that the licensee must comply with, and ensure that its employees, agents, representatives and independent contractors comply with the standards of conduct and disclosure for licensees set out in Commission regulations at 52 Pa. Code §62.114 that were enacted to protect consumers of this Commonwealth. These standards include, *inter alia,* the provision of timely and accurate information about the services offered by the licensee, the practice of nondiscrimination in service in regard to race, color, religion, national origin, marital status, etc., the safeguarding of a consumer’s personal information, and compliance with applicable state and federal consumer protection laws. Also, we take this opportunity to remind the licensee of its agreement to abide by, and to ensure that its employees, representatives, agents and independent contractors abide by all applicable federal and state laws, and Commission regulations, procedures and orders, including Emergency Orders, which may be issued verbally or in writing during any emergency situations that may unexpectedly develop from time to time in the course of doing business in Pennsylvania.

As noted above, UGI LLC has requested that the requirement of public notices be waived and therefore, UGI LLC has not provided proofs of publication in Pennsylvania newspapers. However, UGI LLC provided proofs of service to the interested parties as required by the Commission.

Regarding the financial and technical requirements of the license application, UGI LLC has supplied consolidated financial statements for UGI INC and subsidiaries for the years ended September 30, 2011, and September 30, 2012. UGI LLC has also provided historical employment information for various owners and officers indicating that UGI LLC personnel have the necessary consulting, utility and/or regulatory experience. Sufficient information has been provided by UGI LLC to demonstrate its financial and technical fitness in order to be licensed as a broker/marketer, an aggregator, and a supplier of natural gas services in the NGDC service territories in the Commonwealth of Pennsylvania.

Section 2208(c) (1), 66 Pa. C.S. §2208(c) (1), provides that a natural gas supplier license shall not be issued unless the applicant furnishes a bond or other security in a form and amount to ensure its financial responsibility. The criteria used to establish the form and amount of the bond or other security is set forth in the natural gas distribution company’s tariff. The amount and form of the bond or other security may also be mutually agreed to between the natural gas distribution company and the natural gas supplier. Section 2208 also provides that should the parties fail to achieve an agreement, then the form and amount of bond or other financial security “shall be determined by criteria approved by the Commission.” UGI LLC has provided documentation to evidence its compliance with the Section 2208(c) bonding requirement for the following natural gas distribution company service territory(s): Columbia Gas of Pennsylvania, Inc., Equitable Gas Company, National Fuel Gas Distribution Corp., PECO Energy Company, Peoples Natural Gas Company LLC, Peoples TWP LLC, Philadelphia Gas Works, UGI Central Penn Gas, Inc., UGI Penn Natural Gas, Inc., UGI Utilities, Inc., and Valley Energy, Inc.

UGI LLC has requested that the requirement of public notices be waived. Considering that the transfer requests involves the merger of a corporation into a limited liability company, we believe that the requirement of public notices can be waived. Although not “…a corporate change in name only…” as argued by UGI LLC, it can be viewed as the material change in organizational structure as referenced in 52 Pa. Code §62.105(b) for the purposes of public notice.

There are no outstanding fines pending against UGI INC. There are also no outstanding formal or informal complaints. We also note that UGI INC has provided the notice to customers as required by the Interim Guidelines Regarding Notification by an Electric Generation Supplier of Operational Changes Affecting Customer Service and Contracts, at Docket No. M-00960890F0013.

As of September 3, 2013, no protests have been filed.

We find that the applicant, UGI Newco, LLC:

1. Is fit, willing and able to properly perform the service proposed in conformance with applicable provisions of the Public Utility Code and lawful Commission orders and regulations, specifically including 52 Pa. Code Chapter 56 (relating to Standards and Billing Practices for Residential Utility Service).

2. Has agreed to lawfully abide by all Commission regulations, procedures and orders, including Emergency Orders, which may be issued verbally or in writing during any emergency situations that may unexpectedly develop from time to time in the course of doing business in Pennsylvania.

We further find that the proposed service, to the extent authorized by the license, will be consistent with the public interest and the policy declared in the Natural Gas Choice and Competition Act.

Upon full consideration of all matters of record, we find that approval of the Petition and Application are necessary and proper for the service, accommodation and convenience of the public; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition to Transfer a Natural Gas Supplier License filed by UGI Energy Services, Inc. on May 8, 2013, is hereby granted.

2. That the application of UGI Newco, LLC is hereby approved, consistent with this Order.

3. That a license be issued authorizing UGI Newco, LLC to begin to offer, render, furnish or supply natural gas supplier services to residential, small commercial (less than 6,000 Mcf annually), large commercial (6,000 Mcf or more annually), industrial, and governmental customers as a broker/marketer, aggregator and supplier in the natural gas distribution company service territories throughout the Commonwealth of Pennsylvania, as specified in the Order.

4. That UGI Newco, LLC.’s request for a waiver of the requirement of public notices is granted.

5. That upon the transfer of its final customer to an alternative supplier of natural gas, UGI Energy Services, Inc. files an affidavit with the Commission affirming the transfer of all customers to an alternative provider of natural gas.

6. That upon the filing of the affidavit specified in Ordering Paragraph 5, the natural gas supplier license held by UGI Energy Services, Inc., at Docket No. A-125018, is cancelled.

7. That a copy of this order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, all natural gas distribution companies, the Department of Revenue, Bureau of Corporation Taxes and the Department of Revenue, Bureau of Compliance.

8. That the proceeding at Docket No. A-2013-2369286 be closed.



**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: September 12, 2013

ORDER ENTERED: September 12, 2013